

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas

As Engrossed: H3/24/05 S3/31/05

85th General Assembly

A Bill

Regular Session, 2005

HOUSE BILL 2623

By: Representatives J. Martin, Wood, Adcock, Bond, Bright, Chesterfield, Edwards, L. Evans, Hardwick, Jeffrey, J. Johnson, Key, Maloch, Matayo, Mathis, Maxwell, Pace, Pickett, S. Prater, Reep, Roebuck, Saunders, Schulte, Scroggin, Sumpter, Walters, Wills
By: Senator Faris

For An Act To Be Entitled

AN ACT CONCERNING THE REVIEW OF THE EFFICIENT
OPERATION OF STATE GOVERNMENT; AND FOR OTHER
PURPOSES.

Subtitle

THE GOVERNMENT EFFICIENCY AND
ACCOUNTABILITY ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Legislative intent.

(a) The General Assembly finds that current economic trends dictate that state government operate as efficiently as possible and that the purposes of state government are more easily achieved through the efficient operation of state government.

(b) The General Assembly further finds that every division of state government must be accountable for the performance of its designated purpose.

(c) The purpose of this act is to provide for a review of the efficient operation of state government.

SECTION 2. Arkansas Code Title 25 is amended to add an additional chapter to read as follows:

25-37-101. Short title.

This chapter shall be known as "The Government Efficiency and



1 Accountability Act.”

2
3 25-37-102. Definitions.

4 As used in this chapter:

5 (1) “Committee” means the Government Efficiency and
6 Accountability Review Committee; and

7 (2) “State agency” means an agency, department, board,
8 commission, institution, council, advisory committee, program, or service of
9 the State of Arkansas.

10
11 25-37-103. Government Efficiency and Accountability Review Committee

12 (a) There is created the Government Efficiency and Accountability
13 Review Committee.

14 (b)(1) The committee shall consist of:

15 (A) Four (4) members of the Senate appointed by the
16 President Pro Tempore of the Senate;

17 (B) One (1) member of the Senate appointed by the majority
18 leader of the Senate;

19 (C) One (1) member of the Senate appointed by the minority
20 leader of the Senate;

21 (D) Four (4) members of the House of Representatives
22 appointed by the Speaker of the House of Representatives;

23 (E) One (1) member of the House of Representatives
24 appointed by the majority leader of the House of Representatives; and

25 (F) One (1) member of the House of Representatives
26 appointed by the minority leader of the House of Representatives.

27 (2) Each appointing authority may designate himself or herself
28 as one (1) of the legislative appointees.

29 (3)(A) Members of the House of Representatives serving on the
30 committee shall serve two-year terms.

31 (B) Members of the Senate serving on the committee shall
32 serve four-year terms.

33 (B) If any appointing authority serves on the committee, he or she
34 shall continue to serve until he or she:

35 (i) Resigns from the committee; or

36 (ii) Ceases to hold the office of President Pro

1 Tempore of the Senate, Speaker of the House of Representatives, or majority
2 or minority leader of the Senate or the House of Representatives.

3 (5) A legislative member who serves more than one-half
4 (1/2) of a full term on the committee shall not be appointed to an
5 immediately succeeding term.

6 (c)(1) The appointing authorities shall make their appointments before
7 September 1 of each odd-numbered year.

8 (2) If a member ceases to be a member of the house from which he
9 or she was appointed, the member shall vacate his or her membership on the
10 committee.

11 (3) If a vacancy occurs on the committee, the person who
12 appointed the person to the position that has become vacant shall appoint a
13 person to serve for the remainder of the unexpired term.

14 (d)(1) The committee shall have a chair and vice chair as presiding
15 officers.

16 (2) The chair and vice chair positions shall alternate every two
17 (2) years between the membership groups appointed by the various appointing
18 authorities.

19 (3) The chair and the vice chair shall not be from the same
20 membership group.

21 (4) The appointing authority shall each designate a presiding
22 officer from his or her appointed membership group.

23 (e)(1) Seven (7) members of the committee shall constitute a quorum.

24 (2) A final action or recommendation shall not be made unless
25 approved by a majority vote of the committee's full membership.

26 (f)(1) Each member of the committee shall be entitled to reimbursement
27 for actual and necessary expenses incurred in performing committee duties.

28 (2) Each member shall receive reimbursement from the appropriate
29 fund of the member's respective house.

30
31 25-37-104. Staff.

32 (a) The Government Efficiency and Accountability Review Committee
33 shall employ an executive director to act as the executive head of the
34 committee.

35 (b) The executive director shall employ persons necessary to carry out
36 the provisions of this chapter through funds appropriated by the General

1 Assembly.

2 (c) The chair and vice chair of the committee may each employ a staff
3 to assist them on matters related to committee activities.

4
5 25-37-105. Agency report to committee.

6 Before October 30 of the odd-numbered year before the year in which a
7 state agency is to be abolished, the agency shall report to the Government
8 Efficiency and Accountability Review Committee:

9 (1) Information regarding the application to the agency of the
10 criteria in § 25-37-108; and

11 (2) Any other information that the agency considers appropriate
12 or that is requested by the committee.

13
14 25-37-106. Committee duties.

15 (a) Before September 1 of the even-numbered year before the year in
16 which a state agency subject to this chapter is abolished, the Government
17 Efficiency and Accountability Review Committee shall:

18 (1) Review and take action necessary to verify the reports
19 submitted by the agency under § 25-37-105;

20 (2) Consult the Legislative Council, the Governor's Office, the
21 Legislative Auditor, and the Director of Department of Finance and
22 Administration on the application to the agency of the criteria provided in §
23 25-37-108;

24 (3) Conduct a performance evaluation of the agency based on the
25 criteria provided in § 25-37-108 and prepare a written report; and

26 (4) Review the implementation of committee recommendations
27 contained in the reports presented to the General Assembly during the
28 preceding legislative session.

29 (b) The written report prepared by the committee under subdivision
30 (a)(3) of this section shall be considered a public record.

31
32 25-37-107. Committee report.

33 (a)(1) At each regular session of the General Assembly, the Government
34 Efficiency and Accountability Review Committee shall present to the General
35 Assembly a report on the agencies scheduled to be abolished.

36 (2) The General Assembly shall forward a copy of the report to

1 the Governor, the Lieutenant Governor, and the *Legislative Auditor* for their
2 review.

3 (b) The *committee* shall include in the report:

4 (1) Its specific findings regarding each of the criteria
5 prescribed by § 25-37-108;

6 (2) Its recommendations based on the matters prescribed by § 25-
7 37-109; and

8 (3) Other information the *committee* considers necessary for a
9 complete evaluation of the agency.

10
11 25-37-108. Criteria for review.

12 The *Government Efficiency and Accountability Review Committee* and its
13 staff shall consider the following criteria in determining whether a public
14 need exists for the continuation of a state agency or for the performance of
15 the functions of the agency:

16 (1) The efficiency with which the agency operates;

17 (2) An identification of the objectives intended for the agency
18 and the problem or need that the agency was intended to address, the extent
19 to which the objectives have been achieved, and any activities of the agency
20 in addition to those granted by statute and the authority for these
21 activities;

22 (3) An assessment of less restrictive or alternate methods of
23 performing any regulation that the agency performs that could adequately
24 protect the public;

25 (4) The extent to which the *state agency* is needed and is used;

26 (5) The extent to which the jurisdiction of the agency and the
27 programs administered by the agency overlap or duplicate those of other
28 agencies and the extent to which the programs administered by the agency can
29 be consolidated with the programs of other state agencies;

30 (6) Whether the agency has recommended to the legislature
31 statutory changes calculated to be of benefit to the public rather than to an
32 occupation, business, or institution that the agency regulates;

33 (7) The promptness and effectiveness with which the agency
34 disposes of complaints concerning persons affected by the agency;

35 (8) The extent to which the agency has encouraged participation
36 by the public in making its rules and decisions as opposed to participation

1 solely by those it regulates and the extent to which the public participation
2 has resulted in rules compatible with the objectives of the agency;

3 (9) The extent to which the agency has complied with the
4 applicable requirements of:

5 (A) An agency of the United States or of this state
6 regarding equality of employment opportunity and the rights and privacy of
7 individuals; and

8 (B) State law and applicable rules of any state agency
9 regarding purchasing goals and programs for historically underutilized
10 businesses;

11 (10) The extent to which changes are necessary in the enabling
12 statutes of the agency so that the agency can adequately comply with the
13 criteria listed in this section;

14 (11) The extent to which the agency issues and enforces rules
15 relating to potential conflicts of interest of its employees;

16 (12) The extent to which the agency follows record management
17 practices that enable the agency to respond efficiently to requests for
18 public information; and

19 (13) The effect of federal intervention or loss of federal funds
20 if the agency is abolished.

21
22 25-37-109. Recommendations.

23 (a) In its report on a state agency, the *Government Efficiency and*
24 *Accountability Review Committee* shall:

25 (1) Make recommendations on the abolition, continuation, or
26 reorganization of each affected state agency and on the need for the
27 performance of the functions of the agency;

28 (2) Make recommendations on the consolidation, transfer, or
29 reorganization of programs within state agencies not under review when the
30 programs duplicate functions performed in agencies under review;

31 (3) Recommend appropriation levels for each state agency for
32 which abolition or reorganization is recommended under subdivision (a)(1) or
33 subdivision (a)(2) of this section; and

34 (4) Include drafts of legislation necessary to carry out the
35 committee's recommendations under subdivisions (a)(1) and (2) of this
36 section.

1 (b)(1) The General Assembly shall forward a copy of the report to the
2 Legislative Auditor.

3 (2) Based on a risk assessment of and subject to the Legislative
4 Joint Audit Committee's approval of including the examination in the audit
5 plan under § 25-37-110, the Legislative Auditor may examine the
6 recommendations which do not require a statutory change and include as part
7 of the next approved audit of the agency a report on whether the agency has
8 implemented the recommendations and, if so, in what manner.

9
10 25-37-110. Review of certain agencies.

11 (a) In the two-year period preceding the date scheduled for the
12 abolition of a state agency under this chapter, the Governmental Efficiency
13 and Accountability Review Committee may exempt certain agencies from the
14 provisions of this chapter relating to staff reports, hearings, and
15 evaluations.

16 (b) The committee may only exempt agencies that have been inactive for
17 a period of two (2) years preceding the date the agency is scheduled for
18 abolition.

19 (c) The committee's action in exempting agencies under this section
20 shall be done by a majority vote of the committee.

21
22 25-37-111. Monitoring of recommendations.

23 During each regular legislative session, the staff of the Government
24 Efficiency and Accountability Review Committee shall monitor legislation
25 affecting agencies that have undergone review under this chapter and shall
26 periodically report to the members of the committee on proposed changes that
27 would modify recommendations of the committee.

28
29 25-37-112. Continuation by law.

30 (a) During the regular legislative session immediately before the
31 abolition of a state agency that is subject to this chapter, the General
32 Assembly by law may continue the agency for a period not to exceed twelve
33 (12) years.

34 (b) This chapter does not prohibit the General Assembly from:

35 (1) Terminating a state agency subject to this chapter at a date
36 earlier than that provided in this chapter; or

1 (2) Considering any other legislation relative to a state agency
2 subject to this chapter.

3
4 25-37-113. Procedure after termination.

5 (a)(1) A state agency that is abolished in an odd-numbered year may
6 continue in existence until June 30 of the following year to conclude its
7 business.

8 (2) Unless the law provides otherwise, abolishment shall not
9 reduce or otherwise limit the powers and authority of the state agency during
10 the concluding year.

11 (3) A state agency is terminated and shall cease all activities
12 at the end of the one-year period.

13 (4) Unless the law provides otherwise, all rules that have been
14 adopted by the state agency expire at the expiration of the one-year period.

15 (b) Any unobligated and unexpended appropriations of an abolished
16 agency shall lapse on June 30 of the even-numbered year after abolishment.

17 (c)(1) Except as provided by subsection (f) of this section or as
18 otherwise provided by law, all money in a dedicated fund of an abolished
19 state agency on June 30 of the even-numbered year after abolishment shall be
20 transferred to the General Revenue Fund Account of the State Apportionment
21 Fund.

22 (2) The part of the law dedicating the money to a specific fund
23 of an abolished agency becomes void on June 30 of the even-numbered year
24 after abolishment.

25 (d) Unless the law or a line item appropriation in an appropriation
26 act of the General Assembly provides otherwise, an abolished state agency
27 funded in an appropriation act of the General Assembly for both years of the
28 biennium may not spend or obligate any of the money appropriated to it for
29 the second year of the biennium.

30 (e)(1) Unless the Governor designates an appropriate state agency as
31 prescribed by subsection (f) of this section, property and records in the
32 custody of an abolished state agency on June 30 of the even-numbered year
33 after abolishment shall be transferred to the Office of State Procurement of
34 the Department of Finance and Administration.

35 (2) If the Governor designates an appropriate state agency, the
36 property and records shall be transferred to the designated state agency.

1 (f)(1) The General Assembly recognizes the state's continuing
2 obligation to pay bonded indebtedness and all other obligations, including
3 lease, contract, and other written obligations, incurred by a state agency
4 abolished under this chapter, and this chapter does not impair or impede the
5 payment of bonded indebtedness and all other obligations, including lease,
6 contract, and other written obligations, in accordance with their terms.

7 (2) If an abolished state agency has outstanding bonded
8 indebtedness or other outstanding obligations, including, but not limited to,
9 lease, contract, and other written obligations, the bonds and all other
10 obligations shall remain valid and enforceable in accordance with their terms
11 and subject to all applicable terms and conditions of the laws and
12 proceedings authorizing the bonds and all other obligations, including lease,
13 contract, and other written obligations.

14 (3) The Governor shall designate an appropriate state agency
15 that shall continue to carry out all covenants contained in the bonds and in
16 all other obligations, including, lease, contract, and other written
17 obligations, and the proceedings authorizing them, including the issuance of
18 bonds, and the performance of all other obligations, including lease,
19 contract, and other written obligations, to complete the construction of
20 projects or the performance of other obligations, including lease, contract,
21 and other written obligations.

22 (4) The designated state agency shall provide payment from the
23 sources of payment of the bonds in accordance with the terms of the bonds and
24 shall provide payment from the sources of payment of all other obligations,
25 including lease, contract, and other written obligations, in accordance with
26 their terms, whether from taxes, revenues, or otherwise, until all bonds and
27 interest on the bonds are paid in full and all other obligations, including
28 lease, contract, and other written obligations, are performed and paid in
29 full.

30 (5) If the proceedings so provide, all funds established by laws
31 or proceedings authorizing the bonds or authorizing other obligations,
32 including lease, contract, and other written obligations, shall remain with
33 the Director of the Department of Finance and Administration or the
34 previously designated trustees.

35 (6) If the proceedings do not provide that the funds remain with
36 the Director of the Department of Finance and Administration or the

1 previously designated trustees, the funds shall be transferred to the
2 designated state agency.

3
4 25-37-114. Subpoena power.

5 (a)(1) The Government Efficiency and Accountability Review Committee
6 may issue process to compel the attendance of witnesses and the production of
7 books, records, papers, and other objects necessary or proper for the
8 purposes of the committee proceedings.

9 (2) The process may be served on a witness at any place in this
10 state.

11 (b) If a majority of the committee directs the issuance of a subpoena,
12 the chair of the committee shall issue the subpoena in the name of the
13 committee.

14 (c) If the chair is absent, the chair's designee may issue a subpoena
15 or other process in the same manner as the chair.

16 (d)(1) If necessary to obtain compliance with a subpoena or other
17 process, the committee may issue attachments.

18 (2) The attachments may be addressed to and served by any peace
19 officer in this state.

20 (e) Testimony taken under subpoena shall be reduced to writing and
21 given under oath subject to the penalty of perjury.

22 (f) A witness who attends a committee proceeding under process is
23 entitled to the same mileage and per diem as a witness who appears before a
24 grand jury in this state.

25
26 25-37-115. Assistance and access to state agencies.

27 (a)(1) The Government Efficiency and Accountability Review Committee
28 may request the assistance of state agencies and officers.

29 (2) When assistance is requested, a state agency or officer may
30 assist the committee.

31 (b) In carrying out its functions under this chapter, the committee or
32 its designated staff member may inspect the records, documents, and files of
33 any state agency.

34
35 25-37-116. Records protected from disclosure.

36 A record held by another entity that is confidential by law and that

1 the Government Efficiency and Accountability Review Committee receives in
2 connection with the performance of the committee's functions under this
3 chapter or another law remains confidential and is excepted from the Freedom
4 of Information Act of 1967, § 25-19-101 et seq.

5
6 25-37-117. Relocation of employees.

7 If an employee is displaced because a state agency is abolished,
8 reorganized, or continued, the state agency and the Arkansas Employment
9 Security Department shall make a reasonable effort to relocate the displaced
10 employee.

11
12 25-37-118. Saving provision.

13 Except as otherwise provided, abolition of a state agency does not
14 affect rights and duties that matured, penalties that were incurred, civil or
15 criminal liabilities that arose, or proceedings that were begun before the
16 effective date of the abolition.

17
18 25-37-119. Review of proposed legislation creating regulatory agency.

19 (a) Each bill filed in the General Assembly that would create a new
20 state agency having regulatory authority shall be forwarded to the Government
21 Efficiency and Accountability Review Committee.

22 (b) The committee shall review the bill to determine if:

23 (1) The proposed regulatory or other functions of the agency or
24 committee could be administered by one (1) or more existing state agencies;

25 (2) The form of regulation, if any, proposed by the bill is the
26 least restrictive form of regulation that will adequately protect the public;

27 (3) The bill provides for adequate public input regarding any
28 regulatory function proposed by the bill; and

29 (4) The bill provides for adequate protection against conflicts
30 of interest within the agency.

31 (c) After reviewing the bill, the committee shall forward a written
32 comment on the legislation to the sponsor of the bill and to the chair of the
33 committee to which the bill is referred.

34
35 25-37-120. Gifts and grants.

36 (a) The Government Efficiency and Accountability Review Committee may

1 accept gifts, grants, and donations from any organization described in
2 Section 501(c)(3) of the Internal Revenue Code as it existed on January 1,
3 2005, for the purpose of funding any activity under this chapter.

4 (b) All gifts, grants, and donations shall:

5 (1) Be accepted in an open meeting by a majority of the voting
6 members of the committee; and

7 (2) Reported in the public record of the committee with the name
8 of the donor and the purpose of the gift, grant, or donation.

9
10 25-37-121. Rules.

11 The Government Efficiency and Accountability Review Committee shall
12 promulgate rules necessary to carry out the provisions of this subchapter.

13
14 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
15 General Assembly of the State of Arkansas that the citizens and taxpayers of
16 the State of Arkansas benefit when state government operates at maximum
17 efficiency; that the inefficient operation of state government results in the
18 ineffective use of state financial resources; and that a review of state
19 government to ensure its efficient operation would result in cost savings to
20 the citizens of the state and enhance the delivery of state benefits.
21 Therefore, an emergency is declared to exist and this act being immediately
22 necessary for the preservation of the public peace, health, and safety shall
23 become effective on:

24 (1) The date of its approval by the Governor;

25 (2) If the bill is neither approved nor vetoed by the Governor,
26 the expiration of the period of time during which the Governor may veto the
27 bill; or

28 (3) If the bill is vetoed by the Governor and the veto is
29 overridden, the date the last house overrides the veto.

30
31 /s/ J. Martin
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36